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HOUSE BILL 988

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

W. C. "Dub" Williams

AN ACT

RELATING TO ZONING; PROVIDING FOR STAGGERED TERMS FOR MEMBERS OF SPECIAL ZONING DISTRICT COMMISSIONS; PROVIDING ADDITIONAL POWERS; AUTHORIZING A CODE ENFORCEMENT OFFICER; CLARIFYING ENFORCEMENT; ADDRESSING COSTS; AUTHORIZING A PROPERTY TAX TO FUND SOME COSTS OF A SPECIAL ZONING DISTRICT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-21-15 NMSA 1978 (being Laws 1965, Chapter 206, Section 1) is amended to read:

"3-21-15. SHORT TITLE.--~~[This act]~~ Sections 3-21-15 through 3-21-26 NMSA 1978 may be cited as the "Special Zoning District Act"."

Section 2. Section 3-21-17 NMSA 1978 (being Laws 1965, Chapter 206, Section 3) is amended to read:

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1 "3-21-17. DEFINITIONS.--As used in the Special Zoning
2 District Act:

3 A. "person" includes one or more individuals,
4 partnerships, associations, corporations, the state, any
5 political subdivisions of the state and its agencies;

6 B. "district" means a special zoning district;

7 C. "commission" means [~~zoning~~] a special zoning
8 district commission;

9 D. "single family dwelling" means a house [~~which~~]
10 that is occupied, as a rule, for permanent residence purposes
11 by a person maintaining a household or two or more persons
12 maintaining a common household;

13 E. "election" means an election conducted pursuant
14 to Sections 1-24-1 through 1-24-4 NMSA 1978; and

15 F. "parties in interest" means persons who request
16 actions from the commission."

17 Section 3. Section 3-21-19 NMSA 1978 (being Laws 1965,
18 Chapter 206, Section 5) is amended to read:

19 "3-21-19. ZONING COMMISSION.--

20 A. A zoning commission consisting of five members
21 shall be elected by the registered electors residing within the
22 district. Members of the commission shall be residents of the
23 district and [~~each~~] shall be elected for [~~a term of two years~~]
24 terms as provided in Subsection B of this section. Any vacancy
25 on the commission shall be filled by the remaining members

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1 appointing a new member to fill the unexpired term. Members of
2 the commission shall serve without compensation.

3 B. Except as provided in this subsection, on or
4 after July 1, 2007, members of the commission shall be elected
5 for staggered terms of four years with the staggered terms
6 determined as follows:

7 (1) for an initial election, three members
8 shall be elected for a term of two years and two members shall
9 be elected for a term of four years as chosen by lot by the
10 elected members following the election; or

11 (2) for an election of members on an existing
12 commission at the next election on or after July 1, 2007, three
13 members shall be elected for a term of two years and two
14 members shall be elected for a term of four years as chosen by
15 lot by the elected members following the election."

16 Section 4. Section 3-21-20 NMSA 1978 (being Laws 1965,
17 Chapter 206, Section 6) is amended to read:

18 "3-21-20. ELECTION OF MEMBERS TO THE COMMISSION--COSTS.--

19 A. Within sixty days after the creation of a
20 district, the county commissioners of the county in which the
21 district is situate shall hold an initial election for members
22 to the commission and then shall hold subsequent elections for
23 the commission. When the district is situate in more than one
24 county, the county commissioners of the counties shall
25 cooperate in conducting an election for members to the

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1 commission. [~~The election shall be conducted in the same~~
2 ~~manner as elections for municipal school board members.~~]
3 Except as provided in Subsection B of this section, the cost of
4 conducting elections for members to the commission shall be
5 borne by the county or counties in which the district is
6 situate. Each county shall pay its pro rata share, which is
7 determined by the number of registered electors of the district
8 residing within the county.

9 B. Subsequent to an initial election for members of
10 a commission, if the commission, pursuant to the Special Zoning
11 District Act, has imposed a property tax, the commission shall
12 pay the costs of conducting commission member elections or
13 shall reimburse the county or counties for the costs of
14 conducting those elections."

15 Section 5. Section 3-21-21 NMSA 1978 (being Laws 1965,
16 Chapter 206, Section 7, as amended) is amended to read:

17 "3-21-21. POWERS OF THE COMMISSION.--

18 A. The commission shall have power within the
19 district as part of the building and zoning ordinances,
20 regulations and restrictions adopted by it in the manner
21 otherwise provided by law to regulate and restrict:

22 (1) the height, number of stories and size of
23 buildings and other structures;

24 (2) the percentage of a lot that may be
25 occupied;

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1 (3) the size of yards, courts and other open
2 spaces;

3 (4) the density of populations;

4 (5) the location and use of buildings and
5 structures; and

6 (6) the use of lands for trade, industry,
7 residence or other purposes.

8 B. The commission shall adopt a comprehensive
9 zoning plan or ordinance for the district that includes a
10 master land use plan.

11 C. The commission may:

12 (1) divide the territory under its
13 jurisdiction into districts of a number, shape, area and form
14 as is necessary to carry out the purposes of the Special Zoning
15 District Act; and

16 (2) absent similar regulation by a county or
17 extraterritorial zoning authority in the district affected,
18 regulate or restrict the erection, construction,
19 reconstruction, alteration, repair or use of buildings,
20 structures or land in each district. This regulation shall be
21 uniform for each class or kind of buildings within each
22 district, but regulation in one district may differ from
23 regulation in another district."

24 Section 6. Section 3-21-23 NMSA 1978 (being Laws 1965,
25 Chapter 206, Section 9) is amended to read:

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1 "3-21-23. ORDINANCE--PENALTY--REMEDIES.--

2 A. The commission may provide by ordinance for the
3 enforcement of the Special Zoning District Act. A violation of
4 the Special Zoning District Act or any ordinance made
5 [~~thereunder~~] pursuant to that act is a misdemeanor. If the
6 Special Zoning District Act or any ordinance made [~~thereunder~~]
7 pursuant to that act is violated, the commission, in addition
8 to other remedies, may institute [~~any~~] an appropriate action or
9 proceeding in magistrate or district court to prevent, abate or
10 restrain the violation.

11 B. To carry out the provisions of Subsection A of
12 this section, the commission may appoint or contract for the
13 services of a code enforcement officer, who has the authority,
14 on behalf of the commission, to bring complaints and represent
15 the district in magistrate or district court."

16 Section 7. Section 3-21-24 NMSA 1978 (being Laws 1965,
17 Chapter 206, Section 10) is amended to read:

18 "3-21-24. ENFORCEMENT.--The ordinances enacted under the
19 authority of the Special Zoning District Act shall be enforced
20 by the district attorney or by contract counsel to the
21 commission and the sheriff of the county or counties in which
22 the district is situate. An order of a magistrate or district
23 court finding a violation of a district ordinance shall be
24 enforced by the sheriff of the county or counties in which the
25 violation occurred."

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1 Section 8. Section 3-21-26 NMSA 1978 (being Laws 1981,
2 Chapter 201, Section 1) is amended to read:

3 "3-21-26. COSTS INCURRED BY ZONING COMMISSION OF SPECIAL
4 ZONING DISTRICT--FEES--TAX LEVY.--

5 A. All necessary costs incurred by the [~~zoning~~
6 ~~commission of a special zoning district~~] commission in
7 connection with official acts performed pursuant to the Special
8 Zoning District Act shall be borne by the parties in interest;
9 provided that the commission may by ordinance impose reasonable
10 fees upon parties in interest, and such fees shall be used to
11 defray the costs incurred by the commission.

12 ~~[For purposes of this section, the term "party in~~
13 ~~interest" means the person who requests a variance or a change~~
14 ~~in zoning or who requests the amendment or repeal of any~~
15 ~~regulation, restriction or ordinance adopted pursuant to the~~
16 ~~Special Zoning District Act.]~~

17 B. The commission shall have power and authority to
18 levy and collect ad valorem taxes on and against all taxable
19 property within the district. The tax shall be used for
20 general operating purposes and shall not exceed a rate of one
21 dollar (\$1.00) on each one thousand dollars (\$1,000) of net
22 assessed value of property in the district.

23 C. To levy and collect taxes, the commission shall
24 each year determine the amount of money necessary to be raised
25 by taxation, taking into consideration other sources of revenue

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1 of the district, and shall fix a rate of levy that, when levied
2 upon every dollar of net assessed valuation of taxable property
3 within the district and with other revenues, will raise the
4 amount required by the district annually to supply funds for
5 paying expenses of organizing and operating the district. The
6 commission shall, on or before October 1 of each year, certify
7 to the board of county commissioners of each county within the
8 district, or having a portion of its territory within the
9 district, the rate of levy fixed with directions that at the
10 time and in the manner required by law for levying of taxes for
11 county purposes, the board of county commissioners shall levy
12 the tax upon the assessed valuation of all taxable property
13 within the district, in addition to other taxes as may be
14 levied by the board of county commissioners.

15 D. It shall be the duty of the board or boards of
16 county commissioners to levy taxes provided in the Special
17 Zoning District Act. It shall be the duty of all officials
18 charged with the duty of collecting taxes to collect a
19 district's taxes at the time and in the form and manner and
20 with like interest and penalties as other taxes are collected
21 and, when collected, to pay those taxes to the district
22 ordering its levy and collection. The payment of those
23 collections shall be made monthly to the treasurer of the
24 district and paid into its depository to the credit of the
25 district. All taxes levied under the Special Zoning District

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1 Act, together with interest and penalties for default in
2 payment, and all costs of collecting the taxes, interest and
3 penalties, shall, until paid, constitute a perpetual lien on
4 and against the property taxed, and that lien shall be on a
5 parity with the tax lien of general taxes."

6 Section 9. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2007.

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